

AMENDED IN ASSEMBLY JUNE 27, 2007

SENATE BILL

No. 430

Introduced by Senator Machado

February 21, 2007

An act to amend Section ~~1063.4~~ 10089.5 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 430, as amended, Machado. Insurance: California ~~Insurance Guarantee Association~~. *Earthquake Authority.*

Existing law authorizes the California Earthquake Authority to transact basic residential earthquake insurance and defines "available capital," for the purpose of issuing policies.

This bill would revise the definition of "available capital" effective December 1, 2008, as specified. This bill would also define "total capital" for those purposes.

~~Existing law requires specified insurers to establish the California Insurance Guarantee Association the purpose of which is to provide insurer insolvency coverage for each member. Existing law defines certain terms as used in these provisions, including "unearned premium," which is defined as that portion of a premium that has not been earned and is remaining for the unexpired term of an insolvent insurer's premium because of the cancellation of the policy, as specified.~~

~~This bill would specify that "unearned premium" is to be calculated by the liquidator.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 10089.5 of the Insurance Code is amended*
2 *to read:*

3 10089.5. As used in this chapter:

4 (a) “Authority” means the California Earthquake Authority.

5 (b) (1) “Available capital” means, *until December 1, 2008*, the
6 sum of all moneys and invested assets actually held in the
7 California Earthquake Authority Fund, less loss reserves and loss
8 adjustment expense reserves under all of the authority’s policies
9 of residential earthquake insurance, and less the unearned premium
10 reserve. “Available capital” includes all interest or other income
11 from the investment of money held in the California Earthquake
12 Authority Fund. ~~“Available~~

13 (2) *Effective December 1, 2008, and thereafter*, “available
14 capital” means the sum of all moneys and invested assets actually
15 held in the California Earthquake Authority Fund as of December
16 1, 2008, less loss reserves and loss adjustment expense reserves
17 under all of the authority’s policies of residential earthquake
18 insurance and less the unearned premium reserve, including all
19 interest or other income from the investment of money held in the
20 California Earthquake Authority Fund and credited to that Fund
21 on or by December 1, 2008. “Available capital” does not include
22 revenue received by the authority subsequent to December 1, 2008.
23 Any payment for policyholder claims or loss adjustment expenses
24 made subsequent to December 1, 2008, to the extent that payment
25 is not part of authority loss reserves or loss adjustment expense
26 reserves as of December 1, 2008, shall reduce the level of available
27 capital by the amount of that payment. In the event that, in calendar
28 year 2009 or in any subsequent calendar year, the authority’s
29 aggregate expenditures from the California Earthquake Authority
30 Fund other than for payment of policyholder claims or loss
31 adjustment expenses exceed the revenue received by the authority
32 in that calendar year, the level of available capital shall be reduced
33 as of December 31 of that year by the amount by which the
34 expenditures exceeded revenue.

35 (3) *Regardless of the date of calculation*, “available capital”
36 does not include unearned premium, the proceeds of contracts of
37 reinsurance procured by or in the name of the authority pursuant
38 to subdivision (a) of Section 10089.10, any funds realized on

capital market contracts authorized by subdivision (b) of Section 10089.10, or the proceeds of bonds issued by or in the name of the authority.

(c) “Basic residential earthquake insurance” means that policy of residential earthquake insurance described in Section 10089 except as follows:

(1) (A) If one year after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars (\$700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than two thousand five hundred dollars (\$2,500) in coverage for additional living expenses.

(B) If the authority met the available capital requirements of subparagraph (A) and two years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars (\$700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than three thousand dollars (\$3,000) in coverage for additional living expenses.

(2) (A) If the authority did not meet the available capital requirement of subparagraph (A) of paragraph (1) but, two years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars (\$700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than two thousand five hundred dollars (\$2,500) in coverage for additional living expenses.

(B) If the authority met the available capital requirements as provided by subparagraph (A) and three years after the authority commences operation the authority has available capital equal to or exceeding seven hundred million dollars (\$700,000,000), any policy issued or renewed on or after that date shall provide, less any applicable deductible, not less than three thousand dollars (\$3,000) in coverage for additional living expenses.

(d) “Board” means the governing board of the authority.

(e) “Bonds” means bonds, notes, commercial paper, variable rate and variable maturity securities, and any other evidence of indebtedness.

1 (f) “Capital market contract” means an agreement between the
2 authority and a purchaser pursuant to which the purchaser agrees
3 to purchase bonds of the authority.

4 (g) “Nonparticipating insurer” means an insurer that elects not
5 to transfer or place any residential earthquake policies in the
6 authority.

7 (h) “Panel” means the advisory panel of the authority.

8 (i) “Participating insurer” means an insurer that has elected to
9 join the authority.

10 (j) “Policy of residential property insurance” means those
11 policies described in Section 10087.

12 (k) “Private capital market” means one or more purchasers of
13 bonds of the authority pursuant to a capital market contract.

14 (l) “Qualifying residential property” includes all those residential
15 dwellings set forth in Section 10087.

16 (m) “Residential earthquake insurance market share” means an
17 individual insurer’s total direct premium received for (1) residential
18 earthquake policies and endorsements written or renewed by the
19 insurer in California and (2) residential earthquake policies written
20 or renewed by the authority for which the insurer has written or
21 renewed an underlying policy of residential property insurance,
22 divided by the total gross premiums received by all admitted
23 insurers and the authority for their basic residential earthquake
24 insurance in California.

25 (n) “Residential property insurance market share” means an
26 individual insurer’s total gross premiums received for residential
27 property insurance policies written or renewed by the insurer,
28 divided by the total gross premiums received by all admitted
29 insurers for residential property insurance in California.

30 (o) “Revenue” means all income and receipts of the authority,
31 including, but not limited to, income and receipts derived from
32 premiums, bond purchase agreements, capital contributions by
33 insurers, assessments levied on insurers, surcharges applied to
34 authority earthquake policyholders, and all interest or other income
35 from investment of money in any fund or account of the authority
36 established for the payment of principal or interest, or premiums
37 on bonds, including reserve funds.

38 (p) “Total capital” means the sum of all moneys and invested
39 assets actually held in the California Earthquake Authority Fund,
40 less loss reserves and loss adjustment expense reserves under all

1 *of the authority's policies of residential earthquake insurance, and*
2 *less the unearned premium reserve. "Total capital" includes all*
3 *interest or other income from the investment of money held in the*
4 *California Earthquake Authority Fund. "Total capital" does not*
5 *include unearned premium, the proceeds of contracts of*
6 *reinsurance procured by or in the name of the authority pursuant*
7 *to subdivision (a) of Section 10089.10, any funds realized on*
8 *capital market contracts authorized by subdivision (b) of Section*
9 *10089.10, or the proceeds of bonds issued by or in the name of*
10 *the authority.*

11 ~~(p)~~
12 (q) "Unearned premium reserve" means an amount equal to the
13 unearned portion of premiums due to, or received by, the authority
14 on all of its policies of residential earthquake insurance, without
15 deduction on account of reinsurance ceded. The unearned premium
16 reserve shall be charged as a reserve liability in determining the
17 authority's financial condition. Because the unearned premium
18 reserve is established and maintained to protect the interests of
19 authority policyholders in their unexpired authority policies,
20 authority assets in an amount equal to the unearned premium
21 reserve shall not be subject to encumbrance by, or distribution to,
22 creditors of or claimants against the authority unless and until the
23 authority has paid in full all policyholder claims and policyholder
24 liabilities.

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27 **All matter omitted in this version of the bill**
28 **appears in the bill as introduced in Senate,**
29 **February 21, 2007 (JR11)**
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